Remarks:

Claims 1-4, 11, and 33-38 were previously pending. Applicants have canceled claims 4-10, 12-33, and 36 without prejudice or disclaimer, amended claims 1 and 34 and added new, dependent claims 39-43, all of which depend directly or indirectly from independent claim 1.

In the last Office Action, the Examiner rejected claims 1-4 and 33-38 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 386,768 to Burrows in view of U.S. Patent No. 4,046,482 to Paasch. Applicant has amended the claims, as discussed below, and respectfully submits that the claims are now allowable over the prior art references of record.

Applicant has amended independent claim 1 to recite that each crossbar has a length, a width, and opposing ends, wherein the crossbar spans the watercourse along the crossbar's length, and further wherein the crossbar is operable to be secured to the frame at each general end of the crossbar. Neither Burrows, Paasch, nor any other prior art reference of record teaches or suggests the claimed features and in particular, that opposing ends of the crossbar are secured to the frame. For example, a general middle of each crossbar in Burrows is secured to the frame but not the ends of the crossbars. In Spiess (which was cited in previous Office Actions), the crossbars merely rest on the frame and are not secured to the frame. Additionally, the crossbars in Burrows, i.e., the vertical members, do not span the watercourse. Instead, the crossbars run along a length of the watercourse.

Applicant has also amended independent claim 1 to recite the feature previously recited in dependent claim 4, namely that each crossbar includes a plurality of upstanding members positioned along a length of the crossbar. The Examiner argues that reference numeral 6 in Figure 3 of Burrows illustrates upstanding members. First, Applicant notes the description of the grate of Figure 3 at page 2, lines 8-17 of Burrows. In particular, Burrows states that the cover in Figure 3 is solid with indentations on the exposed surface. In order to reach the locking element that is under the cover, Burrows includes the perforation 17 that goes through the cover. Therefore, the cover illustrated in Figure 3 of Burrows cannot be said to even have crossbars and tread bars. It is simply a man-hole

cover with indentations in it, wherein the indentations are not even hollowed through the depth of the cover.

The Examiner argues that the indentations in Figure 3 are upstanding members positioned along the length of the crossbar. Given that Burrows explicitly states the cover in Figure 3 is a circular man-hole cover, there is no crossbar and there are no upstanding members positioned on the crossbar. Applicant respectfully submits that the Examiner is citing structure in Burrows that is simply insufficient to meet the claimed recitation.

Notwithstanding that Applicant believes that the man-hole cover in Figure 3 is not even close to the same structure as the claimed grate assembly, Applicant notes that the Examiner has already indicated that the vertical members in Figure 1 of Burrows are the crossbars. The claimed feature is that the upstanding members are positioned along the length of the crossbar. Thus, if the crossbars are the vertical members in Burrows, then how can the members in Figure 3 called out by the Examiner as the upstanding members be positioned along the vertical members' lengths? Even if the cover in Figure 3 was a grate assembly, as opposed to a man-hole cover, it is clear that the plurality of upstanding members referenced by the Examiner, i.e., the members labeled by reference numeral 6 in Figure 3, are between the outer crossbars that are secured to the frame via the locking element. Applicant notes that the claimed feature is that the upstanding members are positioned along the **length of the crossbar**, and **the crossbar is secured to the frame**. It is structurally impossible for the items noted by reference numeral 6 to be positioned along the length of the crossbar, if the Examiner also asserts that the crossbars are the vertical members secured to the frame by the locking element of Burrows.

With respect to dependent claim 34, the Examiner argues that it is well known in the art to include a flange to increase structural rigidity, and it would have been obvious to have used a flange with Burrows for this purpose. The flange as claimed is for the purpose of interfacing the upstanding members with the locking element, so as to secure the grate to the frame. Therefore, the flange does much more than provide "structural rigidity." Additionally, it is unclear to Applicant what need

Burrows would have with a flange proximate to the length of the crossbar. Simply because various types of flanges are well known in the art does not imply that the flange as claimed, in combination with the remaining claimed structure, is equally as well known. Applicant thus respectfully requests the Examiner more fully explain his rejection of claim 34 or remove the rejection altogether.

With respect to dependent claim 35, Applicant respectfully submits that the Examiner is incorrect that the locking element in Burrows includes an upturned vertical member operable to interface with the shelf of the frame. Instead, Burrows teaches a horizontal lip 14 that interfaces with the frame. If Burrows had an upturned vertical member, the member would be unable to interface with the frame because Burrows does not teach or suggest a shelf extending from the frame. In particular, an upturned vertical member would inhibit the function of the locking element of Burrows as it would not allow for swinging of the gravity-dog.

Dependent claim 39 has been added to include two locking elements for securing opposing ends of the crossbar to the frame. Applicant notes that Burrows teaches away from securing both sides of the grate to the frame via the locking element. Because of the revolving nature of the locking element in Burrows, if two gravity-dog locking elements were used, two persons would be required to remove a cover. One person could not hold both of the revolving gravity-dogs while still lifting the cover away from the hole. Therefore, Burrows has no use for using two locking elements positioned at opposing ends of the crossbar.

Dependent claim 40 has been added to claim that the locking element must be manually actuated for engagement of the locking element with the frame so as to secure the grate within the frame. Applicant submits that neither Burrows nor Spiess teaches a locking element that must be manually actuated to secure the element. Burrows and Spiess do teach locking elements that must be manually actuated to remove the element from its securing engagement with the frame. However, the Burrows locking element automatically revolves into the securing engagement (hence, the name "gravity-dog"), and the Spiess locking element is resilient so that it flexes into securing engagement.

Dependent claim 41 has been added to claim that the locking element is raised along a generally vertical axis so as to engage the locking element in securing relationship with the frame. In contrast, the Burrows locking element revolves to position the locking element in securing engagement with the frame, and the Spiess locking element flexes generally horizontally to lock the grate in place.

Dependent claim 42 recites that the upstanding members positioned on the crossbar do not extend substantially beyond the crossbar. As best illustrated in Figure 1, it can be seen that the upstanding members do not span the watercourse and are generally limited to a width approximate to the width of the crossbar.

Dependent claim 43 recites that a top of the tread bars positioned on and supported by the crossbars is generally flush with opposing shoulders of the watercourse. If the cover of Paasch is combined with the grate assembly of Burrows, the tread bars sit above the shoulders of the watercourse (or above the road) and therefore, are not flush with the shoulders of the watercourse.

As noted by the Examiner, Burrows does not teach that the tread bars are supported by and positioned on top of the at least one crossbar. The Examiner cites Paasch as teaching this feature. Paasch teaches a cover for placing atop sewer grates. Applicant submits that the Examiner's asserted suggestion or motivation to combine Burrows and Paasch is incorrect. In particular, Burrows notes that the man-holes or catch basins are usually flush with the paved surface, "so as not to prove an obstacle to traffic." (Page 1, lines 22-25 of Burrows). Clearly, the cover of Paasch would be an obstacle to traffic as it sits well above flush with road surface. Additionally, Burrows already teaches crossbars and tread bars, and therefore, there would be no reason to modify Burrows to include the cover of Paasch, which is only needed if there is only one of crossbars or tread bars.

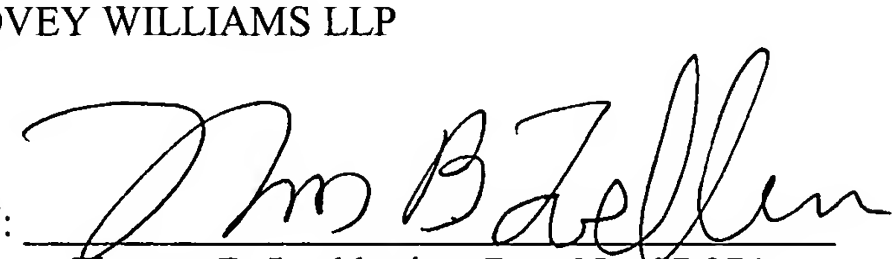
Finally, Applicant has cancelled dependent claim 36, which should remove the Examiner's rejections of the drawings and claim 36.

In view of this response and the remarks herein, Applicant respectfully submits that claims 1-3, 11, 34-35, and 37-43 are in allowable condition and requests a corresponding Notice of

Allowance. In the event of further questions, the Examiner is urged to call either Jennifer C. Bailey, Registration No. 52,583, or the undersigned. Any additional fee which might be due in connection with this application should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

HOVEY WILLIAMS LLP

BY: 

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